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Charlie Crist
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Alex Sink
Chief Financial Officer

Charles H. Bronson
Commissioner of Agriculture

DATE: July 7, 2010
TO: Law Enforcement Agencies
Code Enforcement Agencies
FROM: Carl A Ford, Director
Division of Motor Vehicles
SUBJECT: House Bill 631

Governor Charlie Crist signed House Bill 631 into law, and it took effect July 1, 2010. The law now allows any law enforcement agency, code enforcement agency or the Florida Department of Highway Safety and Motor Vehicles to assess a \$100 fine to the owner of any vehicle towed in violation of the curbstoning laws (Section [316.1951](#)(4), Florida Statutes). The enforcing agency that authorizes the tow will retain the fine.

Curbstoning is a term given to the practice of buying and selling automobiles without a dealer license and legally established place of business. Curbstoners usually park and display their vehicles for sale in high traffic locations. Often these locations are on right of ways and locations such as utility or pipeline easements, gas stations, convenience stores, supermarket parking lots or public parking lots.

The bill requires local government first to adopt an ordinance allowing the tow of motor vehicles parked in violation of Section [316.1951](#), Florida Statutes. Once an ordinance is passed, local governments can begin to assess the fine. A copy of the revised law is attached for your convenience.

The law states that the vehicle must remain impounded until the fine is paid and the enforcing agency that authorized the tow has completed [Form HSMV 84060](#), *Authorization To Release Vehicle After Curbstoning Citation*. The enforcing agency that authorized the tow must complete the form and provide it to the vehicle's owner before the owner can take the form to the impound yard to retrieve the vehicle. The law states that this is a noncriminal traffic infraction, punishable as a non-moving traffic violation. Section [713.78](#), Florida Statutes provides due process.

The most common crime associated with curbstoning is sales tax fraud. This happens when a curbstoner fails to record his/her name on the title of a newly purchased vehicle. This allows the curbstoner to sell the vehicle without disclosing his/her ownership interest. Because of this practice, the person who claims ownership of the impounded vehicle may not be the vehicle owner of record. To combat this, the enforcing agency must require the person paying the fine to provide proof of ownership at the time they pay the fine. Procedures for enforcing agencies should be as follows:

- If the person paying the fine is the vehicle's owner of record, assess the fine and educate the owner regarding the correct way to sell the vehicle. The person paying the fine must present proof of identification to the enforcing agency to verify against the Department's motor vehicle title and registration database.
- If the person paying the fine is not the vehicle owner of record, he/she must enter his/her name on the vehicle title as the purchaser to ensure the proper payment of sales tax and application for title.

We hope this information is useful to you. If we can be of assistance or answer any questions regarding this revised law, please contact Julie Gentry, Interim Chief of the Bureau of Field Operations, Division of Motor Vehicles at (850) 617-3171.

316.1951. Parking for certain purposes prohibited; sale of motor vehicles; prohibited acts.

- (1) It is unlawful for any person to park a motor vehicle, as defined in s.320.01, F.S., for sale upon a public street or highway, a public parking lot, or other public property, or upon private property where the public has the right to travel by motor vehicle, for the principal purpose and intent of displaying the motor vehicle thereon for sale, hire, or rental unless the sale, hire, or rental of the motor vehicle is specifically authorized on such property by municipal or county regulation and the person is in compliance with all municipal or county licensing regulations.
- (2) The provision of section 316.1951(1), F.S., does not prohibit a person from parking their own motor vehicle on their own personal property or any private real property which the person owns or leases or on private real property which the person does not own or lease but for which they obtain permission of the owner, or on a public street immediately adjacent thereto, for the principal purpose and intent of sale, hire, or rental.
- (3) Subsection (1) does not prohibit a licensed motor vehicle dealer from displaying for sale or offering for sale motor vehicles at locations other than the dealer's licensed location if the dealer has been issued a supplemental license for off-premises sales, as provided in s. 320.27(5), F.S., and has complied with the requirements in subsection (1). A vehicle displayed for sale by a licensed dealer at any location other than the dealer's licensed location is subject to immediate removal without warning.
- (4) A local government may adopt an ordinance to allow the towing of a motor vehicle parked in violation of this section. A law enforcement officer or compliance examiner/officer, code enforcement officer from any local government agency, or supervisor of DHSMV may issue a citation and cause to be immediately removed, at the owner's expense, any motor vehicle found in violation of section 316.1951(1), F.S., except as provided in subsections (2) and (3), or in violation of subsection (5), subsection (6), subsection (7), or subsection (8), and the owner shall be assessed a penalty as provided in s. 318.18(21) by the government agency or authority that orders immediate removal of the motor vehicle. A motor vehicle removed under this section shall not be released from an impound or towing and storage facility before a release form prescribed by the Department has been completed verifying that the fine has been paid to the government agency or authority that ordered immediate removal of the motor vehicle. However, the owner may pay towing and storage charges to the towing and storage facility pursuant to s. 713.78 before payment of the fine or before the release form has been completed.
- (5) It is unlawful to offer a vehicle for sale if the vehicle identification number has been destroyed, removed, covered, altered or defaced, as described in s.319.33(1)(d), F.S. A vehicle found in violation of this subsection is subject to immediate removal without warning.
- (6) It is unlawful to knowingly attach to any motor vehicle a registration that was not assigned or lawfully transferred to the vehicle pursuant to s. 320.261, F.S., a vehicle found in violation of this subsection is subject to immediate removal without warning.
- (7) It is unlawful to display or offer for sale a vehicle that does not have a valid registration as provided in s. 320.02, F.S. A vehicle found in violation of this subsection is subject to immediate removal without warning. This subsection does not apply to vehicles and recreational vehicles being offered for sale through motor vehicle auctions as defined in s.320.27(1)(C)(4), F.S.
- (8) A vehicle is subject to immediate removal without warning if it bears the telephone number that has been displayed on three or more vehicles offered for sale within a 12-month period.

- (9) Any other provision of law to the contrary notwithstanding, a violation of subsection (1), subsection (5), subsection (6), subsection (7), or subsection (8) shall subject the owner of such motor vehicle to towing fees reasonably necessitated by removal and storage of the motor vehicle and a fine as required by s. 318.18.
- (10) This section does not prohibit the governing body of a municipality or county, with respect to streets, highways, or other property under its jurisdiction, from regulating the parking of motor vehicles for any purpose.
- (11) A violation of this section is a non-criminal traffic infraction, punishable as a non-moving violation as provided in chapter 318, unless otherwise mandated by law

Section 318.18 (21), F.S., provides that one hundred dollars for a violation of s.316.1951 for a vehicle that is unlawfully displayed for sale, hire, or rental. Notwithstanding any other law to the contrary, fines collected under this subsection shall be retained by the governing authority that authorized towing of the vehicle. Fines collected by the Department shall be deposited into the Highway Safety Operating Trust Fund.

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
DIVISION OF MOTOR VEHICLES
NEIL KIRKMAN BUILDING, TALLAHASSEE, FLORIDA 32399-0500

**AUTHORIZATION TO RELEASE VEHICLE
AFTER CURBSTONING CITATION**

Date: _____ Time: _____ Vehicle: _____
Year Make

VIN#: _____

and/or

TAG #: _____

Vehicle Owner's Information:

_____ Owner's Name		_____ Driver License / ID Card Number	
_____ Address	_____ City	_____ State	_____ Zip

Towing Company:

_____ Company's Name		_____ (Area Code) Phone #	
_____ Address	_____ City	_____ State	_____ Zip

Any person that endorses this document other than the authorized person prescribed by the Department/Agency may be charged with forgery, in violation of section 831.01, F.S., a third degree felony punishable up to 5 years in prison and/or a \$5,000.00 fine.

Any person that utters or presents this document, knowing that it was falsely signed may be charged with uttering a forged instrument in violation of section 831.02, F.S., a third degree felony punishable up to 5 years in prison and/or a \$5,000.00 fine.

Completion of this form indicates that the fine associated with violation of section 316.1951, F.S., has been paid. Please take this form to the towing company that is storing the vehicle and after paying towing and storage fees, the vehicle can be released.

_____ Customer's Signature	_____ Date	_____ Authorizing Agency Representative's Signature	_____ Date
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